

BOARD OF APPEALS CASE NO. 5278 & 5279

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BEFORE THE

APPLICANT: Harford County Government

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ZONING HEARING EXAMINER

**REQUEST: Special Exceptions and variances to
locate communication towers 330 feet high in the
R1 District (703 Tollgate Road, Bel Air) and in
the AG District (1403 Old Mountain Road, Joppa)**

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OF HARFORD COUNTY

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Hearing Advertised

Aegis: 8/14/02 & 8/21/02

Record: 8/16/02 & 8/23/02

**HEARING DATES: December 2, 2002
March 24, 2003**

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ZONING HEARING EXAMINER'S DECISION

Case Nos. 5278 and 5279 were consolidated by joint stipulation of counsel and will be addressed jointly in this opinion.

The Applicant, Harford County Government, seeks special exceptions to construct two (2) 330-foot communication towers, pursuant to Sections 267-53.4C and 267-53.8 of the Harford County Code, one in the R1 District and the other in an AG District. The Applicant also requests variances pursuant to Section 267-53.4C to allow each tower to exceed the maximum allowable height of 200 feet (330 feet proposed).

Case 5278 Parcel.

The subject parcel is located at 1403 Old Mountain Road, Joppa, Maryland 21085 and is more particularly identified on Tax Map 65, Grid 1B, Parcel 511. The subject parcel is improved by the Joppa Magnolia Fire Company which actively utilizes the site as a volunteer fire company. The parcel consists of 4.842 acres, more or less, is zoned R1/Urban Residential and is entirely within the First Election District.

Case 5279 Parcel.

The subject parcel is located on the north side of Tollgate Road, west of the Bel Air bypass and is property formerly operated and known as the Tollgate Landfill. The parcel is more particularly identified on Tax Map 48, Grid 2F, Parcel 100. The parcel consists of 189.78 acres, more or less, is zoned AG/Agricultural and is entirely within the Third Election District.

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FINDINGS OF FACT

For Harford County appeared Mr. Ernest Crist, Engineering Services Manager for Harford County Government. The witness described the County's current radio communications system as outdated (over 20 years old), difficult to facilitate repairs because of unavailability of parts, and is characterized by substantial gaps in coverage. The system was designed more than 20 years ago and cannot accommodate the growth that has occurred in Harford County. Most of the gaps in coverage occur in high density areas, precisely where police, fire and emergency services are most needed. The current standard for such public radio systems is 90% "in-building" coverage. Not only can the present system not fulfill that basic requirement, there are substantial numbers of occurrences of on-street gaps in coverage. In an effort to update the Harford County communications system, bidders were invited to submit engineering proposals. Motorola Company was awarded the design bid.

Mr. David Prebeck appeared and qualified as an expert in the field of public safety communications. The witness is employed by RCC Consultants and is familiar with the proposed communications system and supporting communication towers. Mr. Prebeck confirmed earlier testimony that the existing system in Harford County cannot meet current standards for a public safety communications system. It cannot meet the 90% in-building requirement. The current proposal exceeds the 90% rule in that Harford County desired a 95% coverage guarantee of all proposals. The current proposal meets that standard. Additionally, the witness indicated that other public safety communication uses would co-locate on these towers.

Mr. Frank Baumeister appeared and qualified as an expert in public safety communications. He is a staff engineer for Motorola and familiar with the current proposal. He described how the system was designed using computerized models to obtain height, coverage and location parameters. There are nine (9) tower sites that will make up the completed system. Six (6) of those sites exist today and three (3) need to be added.

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They looked at all available County sites and determined that these two sites were the best possible locations, concluding that the proposed towers at these two locations would meet the coverage requirements of Harford County in the very high density area of Bel Air. The witness described the system design as requiring a minimum of nine (9) sites governed by a single controller. That controller could accommodate one more site but in order to meet the demands and needs of Harford County the tower height of 330 feet cannot be reduced. The witness did admit that an entirely redesigned system could potentially allow reduced tower heights but many other locations would be required (substantially more than 9) and without further study it was impossible to assure that the County's needs could be met with such a system. In the opinion of the witness the proposed 9 tower system with 330 foot towers will provide the coverage requirements of Harford County.

Ms. Nancy Lipski appeared as representative of the Department of Planning and Zoning (Department). The Tollgate Road site was described by the witness as surrounded by the now closed landfill operation. It is over 180 acres and is designated as open space. The old landfill area has been capped and is surrounded by chain link fence. There is, according to the witness, sufficient stable ground at the site to accommodate the tower that is proposed. The Joppa site is an island of R1 zoning surrounded by major highways including I-95, MD Route 152 and MD Route 7, and is currently used by the Joppa Magnolia Fire Company. There are few residential uses in the area that would be impacted at all leading the witness to conclude that impacts will be less at this site than at others. As to the towers themselves, they will generate little or no traffic as they are unmanned. They will both be lattice-work towers and will have aviation lighting. There are no odors, fumes, dust, noise or glare associated with these proposed towers and the proposal is consistent with the Harford County Master Plan. In the opinion of the witness neither of these towers will have an adverse impact on adjoining properties and are consistent with the special exception provisions of the Harford County Code. Because no balloon test is required of this tower, none was performed so the witness could not say from what distance the two towers would be visible. Although there are other towers in Harford County that exceed 200 feet, admittedly these would represent the highest communication towers in the County. Ms. Lipski could not identify any unique topographical features of the properties.

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In opposition appeared Susan Schluederberg who resides at 1100 Sunset Drive and within the development of Woodland Hills adjacent to the Tollgate landfill and subject site. The witness expressed her concerns that the proposed tower will have an adverse impact on the value of her property. She does not know what it will look like but she knew it would interrupt her present unbroken view of grass and forest that is not developed by any structures.

Also in opposition appeared Marcie Glavin who resides in Woodland Hills at 1101 Sunset Drive, also adjacent to the subject parcel. She is opposed because she will have a clear view of this tower from her property. The witness alluded to a letter that she received at the time of the purchase of her property and that she recalled informed her that nothing would ever be built on the landfill property.¹ The witness was concerned about run off from the tower site as well as lack of information regarding the tower and its effect on the landfill and her property.

Mr. Al Smith, also of Woodland Hills and residing at 1106 Sunset Drive appeared in opposition. Mr. Smith was concerned that insufficient information was provided regarding the impact of the tower on the landfill. Of particular concern was whether adequate soil tests had been performed.

Mr. Charles Leiss, who resides at 1104 Sunset Drive and within the development of Woodland Hills also appeared in opposition to the request. The witness claimed inadequate notice was given to non-adjoining property owners. He also referred to a letter regarding information that nothing was to be built on the landfill property. The witness believed that his property value would be adversely impacted by the erection of this tower. Lastly, the witness indicated that he bought his home based on representations that nothing would be built on the landfill property.

Mr. W. King Smith, who resides at 1103 Sunset Drive in Woodland Hills, also

¹A subsequent hearing was convened to make further inquiry regarding the directives of Harford County Tollgate landfill and its maintenance following closure, future maintenance, and its designation as County Open Space. Through the testimony of Jefferson Blomquist, former Harford Deputy County Attorney, it was established that Harford County, although it had no legal requirement to do so, sought agreement from developers that disclosures would be made to prospective purchasers in the proximity of the landfill regarding the landfill's existence and providing information regarding its future uses, maintenance and information regarding other appropriate state and local officials. Despite the allegations of protestants, the Hearing Examiner is satisfied that the only representation made to prospective purchasers regarding structures was that this space would be maintained as open space.

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appeared in opposition to the request. The witness indicated he will be able to see the tower from his property. He is opposed to the request for several reasons including lack of information, lack of any kind of screening to block the view of the tower and a fear that the existence of the tower will devalue his property.

In opposition also appeared Terry Messerschmidt of 1109 Sunset Drive within the subdivision of Woodland Hills. The witness was also concerned about diminution of his property value resulting from the presence of the tower. Additionally he expressed concerns regarding radio and/or television interference from the signal emitted by the tower and generally expressed his opinion that the tower would not be visibly pleasing to look at.

Also in opposition appeared Dee Leiss who resides at 1104 Sunset Drive and Connie Smith of 1106 Sunset Drive, both addresses within Woodland Hills. Both of these witnesses expressed some of the same concerns as their neighbors regarding diminution of property values, aesthetics and the possibility of electronic interference. Additional concerns were expressed regarding soil stability and the ability of the former landfill area to accommodate the weight of such a high tower.

As to the Joppa facility, only one resident appeared in opposition, Ms. Judy Rose, who resides at 1215 Old Mountain Road South. The witness testified that she already has a view of a high tower operated by American Tower and she claimed there was another tower visible from her property as well. The witness questioned whether an adequate review of co-location possibilities were made and questioned whether one of the existing towers in close proximity to her property would not have sufficed for this proposed communications antennae.

However, open space does not preclude any structures and testimony indicated that other areas of open space have schools, maintenance buildings, storage facilities and other structures thereon.

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CONCLUSION

The Applicant, Harford County Government, seeks special exceptions to construct two (2) 330-foot communication towers, pursuant to Sections 267-53.4C and 267-53.8 of the Harford County Code, one in the R1 District and the other in an AG District. The Applicant also requests variances pursuant to Section 267-53.4C to allow each tower to exceed the maximum allowable height of 200 feet (330 feet proposed).

The Harford County Code includes extensive provisions regarding the requirements that must be met in order to construct a communications tower in Harford County. The applicable Code Sections and the Hearing Examiner's findings (in *italics*) follow:

Section 267-53.4.C Communications towers.

Communications towers shall be allowed by special exception, up to 199 feet, in the R, RR, R1, R2, VR, VB, B1, B2 and AG Districts.

The two proposed towers exceed the 199 foot requirement but a variance from that provision is sought by the Applicant and is discussed later in this opinion. One of the parcels is zoned AG and the other R1.

Pursuant to Harford County Code Section 267-53.8, towers associated with public safety uses are exempt from many of the provisions of the Harford County Code applicable to communicant towers. Discussed herein are those sections not exempted due to the nature of the proposed use.

Section 267-53.5. Provisions applicable to all communications towers.

- A. All communications towers shall be structurally designed to accommodate for co-location, which shall mean the ability of structure to allow for the placement of antennas for 3 or more carriers. This provision may be waived by the approving body if it is determined that a co-location design will have an adverse impact on the surrounding area.

Testimony of the Applicant's witnesses indicated that other public communication uses will be co-located on these towers.

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- B. No aviation-related lighting shall be placed upon any communications tower unless specifically required by the Federal Aviation Administration or other governmental entity.**

There is aviation lighting planned for this tower and it is required by the FAA.

- C. Monopoles shall be the preferred communications tower structure type within the county.**

The proposed tower is a lattice work design and, although not preferred, is not prohibited by this section.

- D. To the extent practicable, communication towers shall have suitable landscaping in order to screen the site from adjoining properties.**

Landscaping can be made a condition of approval..

- E. The only signage permitted on any communications tower shall be a single sign no larger than 6 square feet, affixed to the equipment building or fence enclosure that identifies the tower owner, each locating provider and the telephone number for the person to contact in the event of an emergency.**

No signage is proposed.

- F. Upon completion of a communications tower and every 5 years after the date of completion, the owner of the tower shall submit to the Zoning Administrator written certification from a professional engineer verifying that the tower meets all applicable Building Code and safety requirements applicable at the time the original building permit was issued. Failure to submit said certification 60 days of written notification by the Department of Planning and Zoning to the owner of the tower or any successor in interest shall result in the start of the revocation process for the tower approval.**

The Hearing Examiner is satisfied that this and other inspection/notification requirements of the Code will be met by Harford County .

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- G. All zoning certificate applications for the construction of 15 new communications towers shall be subject to the DAC review process, with the following additional requisites:**
- (1) Whether an applicant has satisfied the radio frequency need requirements identified in this section shall be reviewed by a radio frequency engineer. The engineer shall be retained by the county from an approved panel of such engineers to be created and maintained by the county. The engineer shall determine whether the applicant has shown a radio frequency need, based on coverage and/or capacity issues, or other engineering requisites, to construct a new communications tower;**
 - (2) When the communications tower is permitted by right, the engineer's determination shall be made in the ordinary course of DAC review;**
 - (3) When the communications tower is allowed by special exception, the county's radio frequency engineering review shall be made in connection with the staff report review pursuant to Chapter A274-1.D. Such review will be completed prior to any zoning hearing and will preclude further DAC review of radio frequency issues; and**
 - (4) The county's radio frequency engineer shall ensure that any new tower does not interfere with or obstruct existing or proposed communications towers designed for public safety use.**

The Department of Planning and Zoning has recommended as a condition of approval that DAC review and approval be obtained. The applicant submitted for review to the County's RF engineer all requested radio frequency data and the County's RF Engineer issued a favorable report made part of the record as an attachment to the Department of Planning and Zoning's Staff Report. The County's RF Engineer, Mr. Dave Prebeck, concluded that the proposed tower fills an identified coverage gap in the Harford County communications system and that the proposed tower does not interfere with any current or proposed microwave paths.

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- H. The applicant shall be responsible for maintaining the communications tower in a safe condition.

The Applicant's witnesses indicated their intent to comply with these provisions of the Harford County Code.

- I. Communications towers shall be utilized continuously for wireless communications. In the event that a communications tower ceases to be used for wireless communications for a period of 6 months, the approval will be revoked. In the event that the Zoning Administrator is presented with evidence that further viability of the tower is imminent, the Zoning Administrator may grant one extension of the approval for a period not to exceed 6 months beyond the revocation of the use. The applicant shall take all necessary steps to dismantle the tower and remove and dispose of all visible remnants and materials from the subject parcel 90 days after termination. The applicant shall ensure removal of the tower and all associated accessory structures by posting an acceptable monetary guarantee with the county on forms provided by the office of the Zoning Administrator. The guarantee shall be submitted prior to the issuance of a building permit and shall be for an amount equal to a cost estimate approved by the Zoning Administrator for the removal of the tower, plus a 15% contingency.

The Hearing Examiner is satisfied that the Applicant will comply with these provisions of the Harford County Code.

- J. Every application for the construction of a new communications tower shall include the following:
- (1) Information demonstrating the applicant's radio frequency need for the facility, including computer modeling information, an explanation as to why co-location is not feasible and a list of alternative sites considered;

The Applicant described computer models of the coverage currently existing and resulting after erection of the proposed tower. These models lead to the conclusion that there is a significant need to improve and upgrade the Harford County public communications systems and that these two towers are part of a nine tower system designed to be a state of the art communications system that will improve the safety and well being of all citizens in Harford County. Harford County did look at other possible county owned sites in

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determining possible locations for the towers.

- (2) A checklist prepared in conformity with Section 106 of the National Environmental Policy Act and any other documents filed by the applicant with the FCC related to this site if requested by the Department;

The Hearing Examiner is satisfied that Harford County will fulfill any reasonable requests of the Department of Planning and Zoning.

- (3) A site plan, including the layout of the site, a drawing or other physical depiction of the proposed communications tower and any equipment buildings, and a map showing the area within a one mile radius of the tower;

Site plans were submitted into evidence and fully described by the Applicant's witnesses. There was no testimony challenging the accuracy of the site plan submitted.

- (4) A description of the number of carriers' equipment that the tower can accommodate and a statement as to whether the applicant will allow other carriers to co-locate on the facility;

The Applicant's witnesses stated that other public communication systems may use the towers. These will include communications related to police, fire protection, national emergency, emergency response and the like.

- (5) Documentation demonstrating the tower shall be designed and constructed in accordance with any applicable American National Standards Institute standards;

The Applicant has demonstrated that the tower is designed and will be constructed in accordance with applicable American Standards Institute standards.

- (6) Proof that the applicant owns or otherwise has permission to use the site, along with any easements necessary to access the site;

The Applicant owns the subject sites.

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- (7) A certification from each carrier that will utilize the facility that its equipment will meet all applicable federal standards governing the emission of energy from such facilities; and

Not applicable to this request.

- (8) A nonbinding 5-year plan showing the applicant's existing and proposed communications network within the county. In accordance with state law on access to public records, § 10-611 et seq. of the State Government Article, the Department shall treat the 5-year plan it obtains as confidential and shall not permit public inspection of that information.

Not applicable to this request.

- K. When proposing a new communications tower, the applicant must demonstrate a radio frequency need for such a facility by showing:

- (1) That the applicant has researched the co-location possibilities in the area, including in its research a review of the county's database of structures; and

The Applicant provided substantial data to support its efforts to design a state of the art system for Harford County and evaluated a number of other County owned sites. Public safety uses such as this one, however, by virtue of the operation of Section 267-53.8 of the Harford County Code, need not show that there exists no alternative site.

- (2) That due to the absence of sufficiently tall structures in the search area, the absence of structural capacity on existing structures or other valid engineering or economic factors, no viable co-location opportunities exist in the search area.

The Applicant provided a full and complete explanation regarding the unsuitability of any of the possible co-locations it discovered. Public safety uses such as this one, however, by virtue of the operation of Section 267-53.8 of the Harford County Code, need not show that there exists no alternative site. Similarly, a public safety use need not show that a diligent attempt was made to locate the antennae on a existing tower or nonresidential building or structure (267-53.6 does not apply to public safety uses)

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The Hearing Examiner finds, based on the facts set forth above, that the Applicant can meet or exceed each and every requirement of the Harford County Code. In addition to specific statutory requirements, Maryland Courts have had occasion to discuss the burden of proof that must be met by an applicant in a special exception case.

Under Maryland law, the special exception use is part of the comprehensive zoning plan sharing the presumption, that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating the presumption.

The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in a particular case is in harmony with the general purpose and intent of the plan. Schultz v. Pritts, 291 Md. 1, 432 A. 2d 1319, 1325 (1981) (“Schultz”).

“While the applicant in such a case has the burden of adducing testimony, which will show that, his use meets the prescribed standards and requirements of the zoning code, he does not have the burden of showing affirmatively that his proposed use accords with the general welfare. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material; but if there is not probative evidence of harm or disturbance in light of the nature of the zoning involved or of factors causing disharmony to the functioning of the comprehensive plan, a denial of an application for special exception is arbitrary, capricious, and illegal. Turner v. Hammond, 270 Md. 41, 54-55, 310 A. 2d 543, 550-551 (1973) (“Turner”). The appropriate standard to be used in determining whether a requested special exception use should be denied is whether there are facts and circumstances that show the particular use proposed at the particular location proposed would have any adverse effect above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. See Schultz at 432 A. 2d 1327.

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Such facts and circumstances must be strong and substantial to overcome the presumption that the proposed use be allowed in the district. Anderson v. Sawyer, 23 Md. App. 612, 329 A. 2d 716, 724 (1974) (“Anderson”).

The law in Maryland is clear that the localized impact caused by a special exception must be unique and atypical in order to justify denial. Sharp v. Howard County Board of Appeals, 98 Md. App. 57, 632 A. 2d 248 (1993) (“Sharp”).

In determining whether the presence of the proposed uses would be more harmful here than if located elsewhere in the AG zone, one must take into account the area where the use is proposed. AT&T Wireless Services v. Mayor and City Council of Baltimore, 123 Md. App. 681, 720 A. 2d 925 (1998) (“AT&T”).

In Mossburg v. Montgomery County, 107 Md. App. 1, 666 A. 2d 1253 (1995) (“Mossburg”) the Court of Special Appeals had occasion to restate and clarify the law in Maryland regarding special exceptions. There the Court found that the Board of Appeals of Montgomery County improperly denied a special exception for a solid waste transfer station in an industrial zone. In reversing the Circuit Court, which upheld the Board's decision, the Court of Special Appeals found that the decision to deny the special exception was not based on substantial evidence of adverse impact at the subject site greater than or above and beyond impact elsewhere in the zone and, therefore, the decision was arbitrary and illegal. There the Court said:

“The question in the case sub judice, therefore, is not whether a solid waste transfer station has adverse effects. It inherently has them. The question is also not whether the solid waste transfer station at issue here will have adverse effects at this proposed location. Certainly it will and those adverse effects are contemplated by the statute. The proper question is whether those adverse effects are above and beyond, i.e. greater here than they would generally be elsewhere within the areas of the County where they may be established, ... In other words, if it must be shown, as it must be, that the adverse effects at the particular site are greater or “above and beyond”, then it must be asked, greater than what? Above and beyond what? Once an applicant presents sufficient evidence establishing that his proposed use meets the requirements of the statute, even including that it has attached to it some inherent adverse impact, an otherwise silent record does not establish that that impact, however severe at a given location, is greater at that location than elsewhere.” (emphasis supplied)

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Thus, the Court of Special Appeals emphasized that once the applicant shows that it meets the requirements for the special exception under statute, the burden then shifts to the Protestants to show that impacts from the use at a particular location are greater at this location than elsewhere. If the Protestants fail to meet that burden of proof, the requested special exception must be approved.

With the exception of the request to increase the height of the towers, the Applicant has met each and every requirement of the Harford County Code regarding communications systems and towers in general. The protestants failed to produce any evidence that would lead to the conclusion that this tower would have adverse impacts different than or greater than the same tower at some other location. While the protestants expressed unsubstantiated fears regarding property value diminution, inadequacy of the soil to hold the weight, possible intrusions into the landfill cap and possible interference of radio transmissions, Maryland courts have consistently held that expressions of fear unsubstantiated by facts are “...vague and generalized expressions of opinion which are lacking in probative value”. Evans v. Shore Communications, Inc., 112 Md. App. 284, 685 A.2d 454 (1996).

The Applicant also requests a variance for each tower to allow the height to exceed the 200 foot ceiling provided by statute (330 feet is proposed). At issue is whether the provisions of Section 267-11 apply to the instant case or whether the Code specifically alters the applicability of this section by exempting Public Safety Uses from the provisions of Section 267-53.7 of the Harford County Code.

Section 267-11 permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

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Despite the provisions of Section 267-11, by virtue of the operation of Section 267-53.6, public safety uses are not required to comply with the provisions of Section 267-53.7. That provision of the Code provides as follows:

“Additional provisions applicable to proposed sitings in R, RR, R1, R2, VR, VB and B1 Districts.

- A. Applications proposing new communications towers in the R, RR, R1, R2, VR, VB and B1 Districts shall be presumed not to be favored unless the applicant can demonstrate that no suitable alternative site exists. In order to obtain a special exception in one of these districts, the applicant must demonstrate, in addition to the requisites applicable to all other tower requests, the following:**
- (1) There exists no suitable alternative location in a B2, B3, CI, GI, LI or AG District identifying with particularity any other sites considered;**
 - (2) There is something unique about the proposed location, such as its size, the nature of surrounding uses or other factors, that negates the presumption that such facilities are generally incompatible with residential zoning; and**
 - (3) That due to the location, elevation, engineering, technical feasibility or inability to obtain a lease or ownership of a location elsewhere, the construction of a tower at the proposed location is warranted.”**

Thus, the proposed use specifically need not show that there is something unique about this location, such as its size, the nature of the surrounding uses or other factors. A consistent reading of the statutes leads the Hearing Examiner to conclude that, as to public safety uses, the threshold requirement normally associated with the request for a variance, that is, the uniqueness of the particular parcel, has been legislatively predetermined not to be a requirement in such cases.

Further, taken as a whole, it seems to the Hearing Examiner that a public safety use that can otherwise meet the requirements of other applicable provisions of the Code is presumptively permitted unless the opponents can demonstrate significant harm from the proposal, thus negating the presumption of public good associated with public safety communications towers. That is not the case here.

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The proposed system presents a significant issue of public safety. The existing system is outdated and woefully inadequate for today's public communication needs. Harford County and the State of Maryland have partnered in this venture and the proposal will bring state-of-the-art communications to Harford County. One need only open today's newspaper to make an easy determination that an effective public communication system is an absolute necessity in today's troubling times. The Hearing Examiner acknowledges that these towers may not be visually attractive, but their unsightliness is not any different than another similar tower located elsewhere. Moreover, unsightliness and associated visual impacts is outweighed by the public good that will be accomplished by completion of the proposed communication system.

For all of the foregoing reasons, the Hearing Examiner recommends approval of the two special exception requests and the two variance requests, subject to the following conditions:

1. A site plan be submitted to the Development Advisory Committee (DAC) for review and approval.
2. A landscaping plan be developed that will provide forest screening to the extent possible at both locations. The landscaping plan shall be submitted to the Department of Planning and Zoning for its review and approval.
3. The Applicant shall obtain any and all necessary permits and inspections.
4. Construction of the two towers shall be in substantial conformity to the site plan submitted with the two applications.

Date MAY 8, 2003

William F. Casey
Zoning Hearing Examiner